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HOUSE BILL 1267

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MURRAY RYAN

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

**RELATING TO THE CONSTRUCTION OF STATUTES AND ADMINISTRATIVE
RULES; ENACTING THE UNIFORM STATUTE AND RULE CONSTRUCTION ACT;
PROVIDING GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION;
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE--APPLICABILITY.--

**A. This act may be cited as the "Uniform Statute and
Rule Construction Act".**

**B. The Uniform Statute and Rule Construction Act
applies to a statute enacted or rule adopted on or after the
effective date of that act unless the statute or rule expressly
provides otherwise, the context of its language requires
otherwise or the application of that act to the statute or rule
would be infeasible.**

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1 C. Subsection B of this section does not authorize
2 an administrative agency to exempt its rules from a provision of
3 the Uniform Statute and Rule Construction Act.

4 Section 2. COMMON AND TECHNICAL USAGE. -- Unless a word or
5 phrase is defined in the statute or rule being construed, its
6 meaning is determined by its context, the rules of grammar and
7 common usage. A word or phrase that has acquired a technical or
8 particular meaning in a particular context has that meaning if
9 it is used in that context.

10 Section 3. GENERAL DEFINITIONS. -- In the statutes and rules
11 of New Mexico:

- 12 A. "annually" means per year;
- 13 B. "age of majority" begins on the first instant of
14 an individual's eighteenth birthday;
- 15 C. "child" includes a child by adoption;
- 16 D. "oath" includes an affirmation;
- 17 E. "person" means an individual, corporation,
18 business trust, estate, trust, partnership, limited liability
19 company, association, joint venture or any legal or commercial
20 entity;
- 21 F. "personal property" means property other than
22 real property;
- 23 G. "personal representative" of a decedent's estate
24 includes an administrator and executor;
- 25 H. "population" means the number of individuals

1 enumerated in the most recent federal decennial census;

2 I. "property" means real and personal property;

3 J. "real property" means an estate or interest in,
4 over or under land and other things or interests, including
5 minerals, water, structures and fixtures that by custom, usage
6 or law pass with a transfer of land even if the estate or
7 interest is not described or mentioned in the contract of sale
8 or instrument of conveyance and, if appropriate to the context,
9 the land in which the estate or interest is claimed;

10 K. "rule" means a rule, regulation, order, standard
11 or statement of policy, including amendments thereto or repeals
12 thereof, promulgated by an administrative agency, that purports
13 to affect one or more administrative agencies other than the
14 promulgating agency or that purports to affect persons who are
15 not members or employees of the promulgating agency;

16 L. "sign" or "subscribe" includes the execution or
17 adoption of any symbol by a person with the present intention to
18 authenticate a writing;

19 M. "state" means a state of the United States, the
20 District of Columbia, the Commonwealth of Puerto Rico or any
21 territory or insular possession subject to the jurisdiction of
22 the United States;

23 N. "swear" includes affirm;

24 O. "will" includes a codicil; and

25 P. "written" and "in writing" includes printing,

1 engraving or any other mode of representing words and letters.

2 Section 4. CONSTRUCTION OF "SHALL", "MUST" AND "MAY".--

3 A. "Shall" and "must" express a duty, obligation,
4 requirement or condition precedent.

5 B. "May" confers a power, authority, privilege or
6 right.

7 C. "May not", "must not" and "shall not" prohibit
8 the exercise of a power, authority, privilege or right.

9 Section 5. NUMBER, GENDER AND TENSE.--

10 A. Use of the singular number includes the plural,
11 and use of the plural number includes the singular.

12 B. Use of a word of one gender includes
13 corresponding words of the other genders.

14 C. Use of a verb in the present tense includes the
15 future tense.

16 Section 6. REFERENCE TO SERIES.--A reference to a series
17 of numbers or letters includes the first and last number or
18 letter.

19 Section 7. COMPUTATION OF TIME.--In computing a period of
20 time prescribed or allowed by a statute or rule, the following
21 rules apply:

22 A. if the period is expressed in days, the first day
23 of the period is excluded and the last day is included;

24 B. if the period is expressed in weeks, the period
25 ends on the day that is the same day of the concluding week as

1 the day of the week on which an event determinative of the
2 computation occurred;

3 C. if the period is expressed in months, the period
4 ends on the day of the concluding month that is numbered the
5 same as the day of the month on which an event determinative of
6 the computation occurred, unless the concluding month has no
7 such day, in which case the period ends on the last day of the
8 concluding month;

9 D. if the period is expressed in years, the period
10 ends on the day of the concluding month of the concluding year
11 that is numbered the same as the day of the month of the year on
12 which an event determinative of the computation occurred, unless
13 the concluding month has no such day, in which case the period
14 ends on the last day of the concluding month of the concluding
15 year;

16 E. if the period is less than eleven days, a
17 Saturday, Sunday or legal holiday is excluded from the
18 computation;

19 F. if the last day of the period is a Saturday,
20 Sunday or legal holiday, the period ends on the next day that is
21 not a Saturday, Sunday or legal holiday;

22 G. a day begins immediately after midnight and ends
23 at the next midnight;

24 H. if the period is determinable by the occurrence
25 of a future event, the first day of the period is ascertained by

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1 applying the rules of Subsections A through G of this section
2 backward from the last day of the period as if the event had
3 occurred; and

4 I. in computing the time that a legislative session
5 shall end, the word "day" means a twenty-four-hour period from
6 12:00 noon on one calendar day to 12:00 noon on the next
7 calendar day.

8 Section 8. PROSPECTIVE OPERATION. --A statute or rule
9 operates prospectively only unless the statute or rule expressly
10 provides otherwise or its context requires that it operate
11 retrospectively.

12 Section 9. SEVERABILITY. --If a provision of a statute or
13 rule or its application to any person or circumstance is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the statute or rule that can be given effect
16 without the invalid provision or application, and to this end
17 the provisions of the statute or rule are severable.

18 Section 10. IRRECONCILABLE STATUTES OR RULES. --

19 A. If statutes appear to conflict, they must be
20 construed, if possible, to give effect to each. If the conflict
21 is irreconcilable, the later-enacted statute governs. However,
22 an earlier-enacted specific, special or local statute prevails
23 over a later-enacted general statute unless the context of the
24 later-enacted statute indicates otherwise.

25 B. If an administrative agency's rules appear to

1 conflict, they must be construed, if possible, to give effect to
2 each. If the conflict is irreconcilable, the later-adopted rule
3 governs. However, an earlier-adopted specific, special or local
4 rule prevails over a later-adopted general rule unless the
5 context of the later-adopted rule indicates otherwise.

6 C. If a statute is a comprehensive revision of the
7 law on a subject, it prevails over previous statutes on the
8 subject, whether or not the revision and the previous statutes
9 conflict irreconcilably.

10 D. If a rule is a comprehensive revision of the
11 rules on the subject, it prevails over previous rules on the
12 subject, whether or not the revision and the previous rules
13 conflict irreconcilably.

14 Section 11. ENROLLED AND ENGROSSED BILL CONTROLS OVER
15 SUBSEQUENT PUBLICATION. --If the text of an enrolled and
16 engrossed bill differs from a later publication of the text, the
17 enrolled and engrossed bill prevails.

18 Section 12. INCORPORATION BY REFERENCE. --

19 A. A statute or rule that incorporates by reference
20 another procedural statute of New Mexico incorporates a later
21 enactment or amendment of the other statute.

22 B. A statute that incorporates by reference a rule
23 of New Mexico does not incorporate a later adoption or amendment
24 of the rule.

25 C. A rule that incorporates by reference another

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1 rule of New Mexico incorporates a later adoption or amendment of
2 the other rule.

3 Section 13. HEADINGS AND TITLES. --Headings and titles may
4 not be used in construing a statute or rule unless they are
5 contained in the enrolled and engrossed bill or rule as adopted.

6 Section 14. CONTINUATION OF PREVIOUS STATUTE OR RULE. -- A
7 statute or rule that is revised, whether by amendment or by
8 repeal and reenactment, is a continuation of the previous
9 statute or rule and not a new enactment to the extent that it
10 contains substantially the same language as the previous statute
11 or rule.

12 Section 15. REPEAL OF REPEALING STATUTE OR RULE. --The
13 repeal of a repealing statute or rule does not revive the
14 statute or rule originally repealed or impair the effect of a
15 savings clause in the original repealing statute or rule.

16 Section 16. EFFECT OF AMENDMENT OR REPEAL. --

17 A. An amendment or repeal of a civil statute or rule
18 does not affect a pending action or proceeding or a right
19 accrued before the amendment or repeal takes effect.

20 B. A pending civil action or proceeding may be
21 completed and a right accrued may be enforced as if the statute
22 or rule had not been amended or repealed.

23 C. If a criminal penalty for a violation of a
24 statute or rule is reduced by an amendment, the penalty, if not
25 already imposed, must be imposed under the statute or rule as

1 amended.

2 Section 17. CITATION FORMS.--Citations in the following
3 forms are adequate for all purposes:

4 A. session laws: "Laws 1995, Chapter 1, Section 1"
5 or "L. 1995, Ch. 1, § 1"; and

6 B. annotated statutes: "§ 1-1-1 NMSA 1978" or
7 "Section 1-1-1 NMSA 1978".

8 Section 18. PRINCIPLES OF CONSTRUCTION--PRESUMPTION.--

9 A. A statute or rule is construed, if possible, to:

10 (1) give effect to its objective and purpose;

11 (2) give effect to its entire text; and

12 (3) avoid an unconstitutional, absurd or
13 unachievable result.

14 B. A statute that is intended to be uniform with
15 those of other states is construed to effectuate that purpose
16 with respect to the subject of the statute.

17 C. The presumption that a civil statute in
18 derogation of the common law is construed strictly does not
19 apply to a statute of this state.

20 Section 19. PRIMACY OF TEXT.--The text of a statute or
21 rule is the primary, essential source of its meaning.

22 Section 20. OTHER AIDS TO CONSTRUCTION.--

23 A. In considering the text of a statute or rule in
24 light of Sections 2 through 7 and Sections 18 and 19 of the
25 Uniform Statute and Rules Construction Act, and the context in

1 which the statute or rule is applied, the following aids to
2 construction may be considered in ascertaining the meaning of
3 the text:

4 (1) the meaning of a word or phrase may be
5 limited by the series of words or phrases of which it is a part;
6 and

7 (2) the meaning of a general word or phrase
8 following two or more specific words or phrases may be limited
9 to the category established by the specific words or phrases.

10 B. In addition to considering the text of a statute
11 or rule in light of Sections 2 through 7 and Sections 18 and 19
12 of the Uniform Statute and Rules Construction Act, the context
13 in which the statute or rule is applied and the aids to
14 construction in Subsection A of this section, the following aids
15 to construction may be considered in ascertaining the meaning of
16 the text:

17 (1) a settled judicial construction in another
18 jurisdiction as of the time a statute or rule is borrowed from
19 the other jurisdiction;

20 (2) a judicial construction of the same or
21 similar statute or rule of this or another state;

22 (3) an official commentary published and
23 available before the enactment or adoption of the statute or
24 rule;

25 (4) an administrative construction of the same

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1 or similar statute or rule of this state;

2 (5) a previous statute or rule, or the common
3 law, on the same subject;

4 (6) a statute or rule on the same or a related
5 subject, even if it was enacted or adopted at a different time;
6 and

7 (7) a reenactment of a statute or readoption of
8 a rule that does not change the pertinent language after a court
9 or agency construed the statute or rule.

10 C. If, after considering the text of a statute or
11 rule in light of Sections 2 through 7 and Sections 18 and 19 of
12 the Uniform Statute and Rules Construction Act, the context in
13 which the statute or rule is applied and the aids to
14 construction in Subsections A and B of this section, the meaning
15 of the text or its application is uncertain, the following aids
16 to construction may be considered in ascertaining the meaning of
17 the text:

18 (1) the circumstances that prompted the
19 enactment or adoption of the statute or rule;

20 (2) the purpose of a statute or rule as
21 determined from the legislative or administrative history of the
22 statute or rule; and

23 (3) the history of other legislation on the
24 same subject.

25 Section 21. REPEAL. -- Sections 12-2-1, 12-2-2 and 12-2-6

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1 NMSA 1978 (being Laws 1865-1866, Page 192, Section 4, Laws 1880,
2 Chapter 6, Section 32 and Laws 1912, Chapter 21, Section 1, as
3 amended) are repealed.

4 Section 22. EFFECTIVE DATE. -- The effective date of the
5 provisions of this act is July 1, 1997.

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 10, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 1267

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: King, Rios

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 18, 1997

Mr. President:

Your PUBLIC AFFAIRS COMMITTEE, to whom has been referred

HOUSE BILL 1267

has had it under consideration and reports same with recommendation that it DO PASS, and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

Shannon Robinson, Chairman

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Ingle, Rodarte

Absent: 0

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